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Attorney for Plaintiff

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

Ciara Williams,

Plaintiff,

Silvino Hinojosa, and TOPGOLF
USA Las Vegas, LLC, DOES 1
through X, inclusive, and ROES
through X, inclusive

Defendants.

CASE NO: A-18-784031-C
Dept. No.: IV

**PLAINTIFF'S MOTION FOR AN
ORDER EXTENDING TIME TO FILE
AMENDED COMPLAINT**

NO HEARING REQUESTED

Plaintiff Ciara Williams, by and through her counsel, The Legal Offices of James J. Lee, moves for an Order from the Court extending time to file her proposed Third Amended Complaint. This motion is based on Rule 6(b)(1) of the Nevada Rules of Civil Procedure.

Facts and Procedural History

On August 5, 2020 this Court issued a Minute Order granting Plaintiff's unopposed Motion for Leave to Amend her complaint and add TopGolf International d/b/a TopGolf Entertainment Group ("TopGolf International") as a Roe Corporation Defendant. The proposed Third Amended Complaint contains a cause of action grounded on Title VII, which raises a federal question and gives TopGolf International an opportunity to file a petition for removal to federal court. Whether it stays in federal court remains to be seen.

MOTION FOR ORDER EXTENDING TIME - 1

1 In a telephonic meet and confer on August 26, 2020 between counsel for Plaintiff and
2 Defendant TopGolf Las Vegas, LLC (“TopGolf LV”), TopGolf LV’s counsel disclosed they
3 would most likely represent TopGolf International once it was added as a defendant in this action,
4 and that they intended to remove the case to federal court as soon as possible.

5 The August 5, 2020 Minute Order also requested counsel to prepare the Order granting
6 Plaintiff’s motion to amend in accordance with EDCR 7.21. TopGolf LV drafted a proposed
7 Order Granting Plaintiff’s Motion to Amend Complaint (attached as **Exhibit 1**) which imposed a
8 deadline of five days after the execution of the order for Plaintiff to file her proposed Third
9 Amended Complaint. On August 21, 2020, while the parties were in depositions, and on August
10 26, 2020, during the aforementioned meet and confer, Plaintiff’s counsel explained his objections
11 to TopGolf LV’s proposed order and its imposed five-day deadline. The parties are currently
12 engaged in discovery with depositions of two important witnesses, Natalie Pueblas and Elba
13 Servin, scheduled for September 14, 2020, and Plaintiff’s deposition scheduled for September 16,
14 2020. Plaintiff’s objections to the five-day time limit to file her amended complaint are due to the
15 delay in discovery that removal to federal court will cause. Removal will immediately divest this
16 Court of jurisdiction and indefinitely delay the above referenced depositions as the parties are
17 required by federal procedure to await TopGolf International’s answer to the complaint, engage
18 in a discovery conference, file a discovery plan, and await affirmation of the plan through a
19 scheduling order from the court before they can continue to engage in discovery.

20 Both Plaintiff and TopGolf LV have expressed their desire in the above referenced
21 conferences for Plaintiff’s deposition to proceed as scheduled, as it has already been delayed due
22 to COVID-19 and because Plaintiff recently required medical treatment in Arizona that rendered
23 her unable to attend proceedings. Plaintiff has also expressed her interest in the depositions of
24 Natali Pueblas and Elba Servin proceeding as scheduled, as Plaintiff is informed and believes that
25 one or both of the witnesses may become permanently unavailable during the time that the case
26 is removed to federal court and discovery is put on hold.
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1 Pueblas is expected to testify that she was sexually harassed by Defendant Silvino
2 Hinojosa during her employment at TopGolf LV, that she knew of the harassment Plaintiff
3 endured while at TopGolf LV, and that it was common knowledge among female staff that
4 TopGolf LV did nothing to protect employees from sexual harassment. Servin is expected to
5 testify that she was sexually harassed by Defendant Silvino Hinojosa (“Hinojosa”) and filed a
6 formal written complaint against him with TopGolf LV Human Resources, who failed to conduct
7 or involve her in an investigation of her complaint and took no action to protect her. She is further
8 expected to testify that she knew that Plaintiff endured sexual harassment by Defendant Hinojosa.

9 Despite these concerns, which were expressed in detail to TopGolf LV’s counsel, TopGolf
10 LV refuses to amend its proposed Order and allow Plaintiff additional time to file her Third
11 Amended Complaint so that the depositions can proceed as scheduled. Plaintiff has requested that
12 she be allowed 30-days from the date of her deposition to file the amended complaint.
13 Accordingly, on August 27, 2020, TopGolf LV submitted a letter to this Court with its proposed
14 Order allowing Plaintiff only five days to file her amended complaint. Due to the inability for the
15 parties to agree on a proposed order, Plaintiff now moves for an order from this Court granting
16 her at least 30-days after the date of her deposition to file her Third Amended Complaint. Attached
17 as **Exhibit 2** is Plaintiff’s proposed Order.

18 **Memorandum of Points and Authorities**

19 Nevada Rules of Civil Procedure (NRCP) Rule 6(b)(1) provides that in the absence of a
20 stipulation of the parties for an extension of time, the court may, for good cause, extend the time
21 if a request is made before the original time or its extension expires. In this case, there is no rule
22 that Plaintiff could find which would impose a certain deadline to file her proposed amended
23 complaint. In fact, it is only TopGolf LV who has imposed an arbitrary deadline of five days.
24 There is good cause to provide Plaintiff an extension of time from TopGolf LV’s proposed
25 deadline because, as described above, the already scheduled depositions of important fact
26 witnesses will be indefinitely delayed by TopGolf International’s removal of this action to federal
27 court. Moreover, Plaintiff is informed and believed that essential testimony may be permanently
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1 lost during the time it will take for discovery to recommence after removal to federal court. In
2 contrast, TopGolf LV's counsel, who does not yet represent TopGolf Entertainment, cannot
3 articulate any prejudice that would arise from Plaintiff's requested extension of time.

4 NRCP 27 allows a party to preserve deposition testimony before an action is filed where
5 perpetuating testimony may prevent a failure or delay of justice, because of, for example, the risk
6 that a witness may become unavailable. This motion is not grounded on Rule 27 because this
7 action has been filed, but the rule gives expression to the underlying principle that substantial
8 justice depends on trying cases on their merits and that the court may exercise its discretion to
9 ensure that such justice is done. Here, Plaintiff is informed and believes that two fact witnesses
10 may become unavailable during the period of indefinite delay in discovery that will arise from
11 removal and the immediate divestment of this Court's jurisdiction over this action, In order to
12 prevent a failure or delay in justice, the depositions should proceed as scheduled and Plaintiff
13 should be allowed 30 days after her deposition is completed to file her Third Amended Complaint.

14 DATED this 4th day of September, 2020.

15
16 LEGAL OFFICES OF JAMES J. LEE

17
18 /s/ James J. Lee
19 James J. Lee
20 Nevada Bar No. 1909
21 2620 Regatta Drive #102
22 Las Vegas, NV 89128
23 *Attorney for Plaintiff*
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25
26
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NOTICE OF MOTION

PLEASE TAKE NOTICE that the undersigned counsel will bring **PLAINTIFF’S MOTION FOR ORDER EXTENDING TIME** on for hearing before Department IV of this Court on the ____ day of _____, 2020, at the hour of ____ a.m./p.m., or as soon thereafter as the matter may be heard.

DATED this 4th day of September, 2020.

LEGAL OFFICES OF JAMES J. LEE

/s/ James J. Lee

James J. Lee

Nevada Bar No. 1909

2620 Regatta Drive #102

Las Vegas, NV 89128

Attorney for Plaintiff Ciara Williams

EXHIBIT 1

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Attorneys for Defendant

TopGolf USA Las Vegas, LLC

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

CIARA WILLIAMS,

Plaintiff,

vs.

SILVINO HINOJOSA, AND TOPGOLF USA
LAS VEGAS, LLC, DOES 1 through X,
inclusive AND ROES through X, inclusive,

Defendants.

Case No.: A-18-784031-C

Dept. No.: IV

**ORDER GRANTING PLAINTIFF'S
MOTION TO AMEND COMPLAINT**

Plaintiff's Motion to Amend Complaint ("Motion") having come on before the Court for an *in camera* hearing, Defendant TopGolf USA Las Vegas, LLC's Notice of Non-Opposition to Plaintiff's Motion to Amend Complaint thereto having been filed pursuant to EDCR 2.20(e), and a Minute Order having been issued granting the Motion and directing Counsel to prepare the Order, good cause appearing,

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...

1 IT IS HEREBY ORDERED that Plaintiff's Motion to Amend Complaint is hereby
2 GRANTED.

3 IT IS FURTHER ORDERED that the Amended Complaint be filed or deemed filed within
4 five days of the execution of this Order.

5 DATED this _____ day of August, 2020.

6
7 _____
8 DISTRICT COURT JUDGE

9 Respectfully submitted by:

10 OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
11

12 _____
13 Suzanne Martin, Nevada Bar No. 8833
14 Erica J. Chee, Nevada Bar No. 12238
15 3800 Howard Hughes Parkway, Suite 1500
16 Las Vegas, Nevada 89169
17 *Attorneys for Defendant TopGolf USA Las Vegas, LLC*

18 Approved as to form and content:

19 LEGAL OFFICES OF JAMES J. LEE
20

21 _____
22 James J. Lee
23 Nevada Bar No. 1909
24 2620 Regatta Drive, Suite 102
25 Las Vegas, NV 89128
26 *Attorney for Plaintiff*
27
28

EXHIBIT 2

OGM

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Attorney for Plaintiff

**EIGHTH JUDICIAL DISTRICT COURT
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IT IS HEREBY ORDERED that Plaintiff's Motion to Amend Complaint is hereby GRANTED.

IT IS FURTHER ORDERED that the Amended Complaint be filed or deemed filed within 30 days of the completion of Plaintiff Ciara Williams' deposition.

DATED this _____ day of September, 2020.

DISTRICT COURT JUDGE

Respectfully Submitted by:

LEGAL OFFICES OF JAMES J. LEE

/s/ James J. Lee

James J. Lee, Esq.

Nevada Bar No. 1909

2620 Regatta Drive, Suite 102

Las Vegas, NV 89128

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to NEFCR 9(A), I electronically transmitted the foregoing **PLAINTIFF'S MOTION FOR ORDER EXTENDING TIME TO FILE AMENDED COMPLAINT** to the Clerk's Office using the electronic filing process for the Eighth Judicial District Court to the following registrant:

Suzanne L. Martin
Erica J. Chee

Pursuant to NRCP 5(b), I hereby further certify that on this date, service of the foregoing was also made by depositing a true and correct copy of same for mailing, first class mail, postage prepaid thereon, at Las Vegas, Nevada, to the following:

Silvino Hinojosa, ID #01722886
Clark County Detention Center
330 S. Casino Center Boulevard
Las Vegas, NV 89101-6102

DATED this 4th day of September 2020

/s/ Isabella Lee
An employee of The Legal Offices
of James J. Lee